IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4796 OF 2005

Chhaburao Nagare ..Petitioner.

Versus

Mr. Bajirao Shinde & Another ..Respondents.

Mr. Mandar Goswami for the Petitioner.

Mr. P.I. Khemani for Respondent No.1.

Mr. G.S.Godbole and Mr.Sangam Sahastrabudhe for Respondent No.2.

CORAM : S. A. BOBDE, J.

DATED : 04TH AUGUST, 2005.

P.C.:

1. Rule, returnable forthwith.

. Mr. Khemani waives service of rule for the Respondent No.1 and Mr. Godbole for Respondent No.2.

. Heard by consent.

2. The petitioner is aggrieved by the order of the Returning Officer, accepting the nomination form of the respondent No.2. According to the petitioner,

the nomination form ought not to have been accepted since the 2nd respondent is a debtor within the meaning of section 73 FF of the Maharashtra Co-operative Societies Act. The learned counsel for the petitioner relies on a statement of account at Exh. 'B' to the petition, which show a debit balance of Rs. 2,62,294.00/- on 07.07.2005. The learned counsel for the respondent relies on another statement of account as on 08.07.2005 at Exh.'D', which shows a zero debit balance. The Returning Officer has relied on an extract of account. There seems to be a dispute on facts as pointed out above.

3. There seems to be no Appeal provided by the Co-operative Societies Act against acceptance of nomination paper. The Appeal is provided only against rejection of nomination paper vide section 152-A.

4. Having regard to the dispute, I consider it appropriate to decline to interfere at this stage since the petitioner has a remedy by way of an election petition as provided by the Act.

5. Petition dismissed. Rule discharged.

Dt. 04.08.2005 (S.A. BOBDE,J.)

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